

1 FELIPE ROCHA #K-94573

2 PBSP - D-9-2134 SHV

3 P.O. BOX- 7500

4 CRESCENT CITY CAL

5 95532

6 IN PRO SE

7
8 IN THE UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 FELIPE ROCHA #K-94573

12 PETITIONER

VS.

13 ROBERT A. HOREZ (WARDEN)

14 RESPONDENT
15
16
17
18
19

NO. C 07-3295 CRB PR.

PETITIONERS APPLICATION
FOR CERTIFICATE
OF APPEALABILITY
FROM THE DISTRICT
COURT AND STATEMENT
OF REASONS IN
SUPPORT

20 INTRODUCTION

21 PETITIONER FELIPE ROCHA #K-94573

22 REQUESTS THAT THE U.S. DISTRICT COURT
23 ISSUE A CERTIFICATE OF APPEALABILITY
24 (HEREAFTER "COA") PERMITTING
25 PETITIONER TO APPEAL FROM THE JUDGEMENT
26 ENTERED BY THE HONORABLE CHARLES
27 R. BREYER UNITED STATES DISTRICT
28 JUDGE ON JULY 7TH 2008TH.

(COA
10415)

1 DENYING THE PETITION FOR WRIT
 2 OF HABEAS CORPUS IN THE ABOVE
 3 ENTITLED MATTERED. CONCURRENTLY
 4 WITH THIS APPLICATION FOR COA.
 5 PETITIONER HAS FILED A TIMELY NOTICE
 6 OF APPEAL.

7

8

9 ISSUES ON WHICH CERTIFICATE
 10 OF APPEALABILITY IS SOUGHT

11

12

CLAIM # 1

13

14 WHETHER THE DISTRICT COURT ERRED IN
 15 FAILING TO GRANT PETITIONERS
 16 EVIDENTIARY HEARING ON PETITIONERS
 17 CLAIM THAT COUNSEL'S FAILURE TO SEEK
 18 PITCHESS DISCOVERY FOR THE WITNESS
 19 ON WHOM THE ENTIRE PROSECUTION CASE
 20 DEPENDS ON, FELT BELOW THE
 21 STANDARDS OF REASONABLY COMPETENT
 22 COUNSEL-

23

24

CLAIM 2#

25

26 WHETHER WITH REGARD TO PETITIONERS
 27 CLAIM THAT THE DISTRICT COURT
 28 ERRED AND ACTED CONTRARY TO

(COA)
 (2d15)

1 AND UNREASONABLY APPLIED CASE LAW
 2 TO ITS RESPONSE IGNORING CLEARLY
 3 ESTABLISHED FEDERAL LAW DECIDED BY
 4 UNITED STATES COURTS WHICH IN PETITIONERS
 5 WRITT ARTICULATES HOW DENIAL OF
 6 PETITIONERS MAROSEN MOTION WAS AN ABUSE
 7 OF DISCRETION, BECAUSE AS THE RECORD
 8 DID CAPTURE AS DID COUNSEL BY HIS OWN
 9 ADMISSIONS, COUNSEL WAS PERFORMING
 10 BELOW THE STANDARDS OF REASONABLY
 11 COMPETENT COUNSEL. AND BECAUSE AS
 12 PETITIONERS WRITT CLEARLY SHOWS.
 13 THE RELATIONSHIP BETWEEN CLIENT AND
 14 COUNSEL WAS SO IRREVOCABLY IMPAIRED
 15 THAT INEFFECTIVE REPRESENTATION
 16 WAS LIKELY TO RESULT.

17 18 LEGAL STANDARD FOR 19 ISSUANCE OF COA.

20
 21 IN THE U.S. SUPREME COURT DECISION
 22 IN MILLER-EL V. COCKRELL 537 U.S. 322
 23 123 S. CT 1029 (2003) THE COURT
 24 CLARIFIED THE STANDARDS FOR
 25 ISSUANCE OF A COA:

26 A PRISONER SEEKING A COA
 27 NEED ONLY DEMONSTRATE A "SUBSTANTIAL"
 28 SHOWING OF THE DENIAL OF A CONSTITUTIONAL

1 RIGHT." A PETITIONER SATISFIES THIS
 2 STANDARD BY DEMONSTRATING THAT JURIST
 3 OF REASON COULD DISAGREE WITH THE
 4 DISTRICT COURT'S RESOLUTION OF HIS CONSTITUTIONAL
 5 CLAIMS OR THAT JURISTS COULD CONCLUDE
 6 THE ISSUE PRESENTED ARE ADEQUATE
 7 TO DESERVE ENCOURAGEMENT TO PROCEED
 8 FURTHER.

9 Id. 123 S. CT AT 1034 CITING SLACK V.
 10 MCDANIEL 529 U.S. 473, 484 (2000)

11 REDUCED TO ITS ESSENTIALS THE TEST IS MET
 12 WHERE THE PETITIONER MAKES A SHOWING THAT
 13 THE PETITION SHOULD HAVE BEEN RESOLVED IN
 14 A DIFFERENT MATTER OR THAT THE ISSUES
 15 PRESENTED WERE ADEQUATE TO DESERVE
 16 ENCOURAGEMENT TO PROCEED FURTHER;

17 Id. AT 1039 CITING BARE-FOOT V. ESTELLE
 18 463 U.S. 880 (1983). THIS MEANS THAT
 19 THE PETITIONER DOES NOT HAVE TO PROVE
 20 THAT THE DISTRICT COURT WAS NECESSARILY
 21 'WRONG' - JUST THAT ITS RESOLUTION OF
 22 THE CONSTITUTIONAL CLAIM IS "DEBATABLE."

23 WE DO NOT REQUIRE PETITIONER
 24 TO PROVE BEFORE THE ISSUANCE OF A
 25 COA THAT SOME JURIST WOULD GRANT
 26 PETITION FOR HABEAS CORPUS. INDEED,
 27 A CLAIM CAN BE DEBATABLE EVEN
 28 THOUGH EVERY JURIST OF REASON MIGHT

1 AGREE AFTER THE COA HAS BEEN GRANTED
 2 AND THE CASE HAS RECEIVED FULL CONSIDERATION
 3 THAT PETITIONER WILL NOT PREVAIL. AS WE
 4 STATED IN SLACK WHERE A DISTRICT COURT
 5 HAS REJECTED THE CONSTITUTIONAL CLAIMS ON
 6 THE MERITS, THE SHOWING REQUIRED TO
 7 SATISFY § 2253 (C) IS STRAIGHT FORWARD.
 8 THE PETITIONER MUST DEMONSTRATE THAT
 9 REASONABLE JURISTS WOULD FIND THE DISTRICT
 10 COURT'S ASSESSMENT OF THE CONSTITUTIONAL
 11 CLAIMS DEBATABLE OR WRONG.

12 FOR THE REASONS STATED BELOW, THE
 13 ISSUES ON WHICH PETITIONER SEEKS A
 14 COA ARE AT LEAST DEBATABLE AMONG
 15 JURISTS OF REASON. HENCE AND EVEN
 16 THOUGH THIS COURT'S DECISION MIGHT ULTIMATELY
 17 BE AFFIRMED ON APPEAL, PETITIONER IS
 18 ENTITLED TO A COA ON THE ISSUES SET
 19 FORTH ABOVE.

20
 21 STATEMENT OF REASONS FOR
 22 ISSUANCE OF COA

23 1.

24
 25 THE DISTRICT COURT ERRED IN FAILING
 26 TO GRANT EVIDENTIARY HEARING ON
 27 PETITIONER'S CLAIM OF COUNSEL'S
 28 FAILURE TO SEEK PITHLESS DISCOVERY

(COA
 5 of 15)

1 FOR THE WITNESS ON WHOM THE ENTIRE
 2 PROSECUTION CASE DEPENDS ON FEL/ BELAN
 3 THE STANDARDS OF REASONABLY COMPETENT
 4 COUNSEL -

6 NATURE OF CLAIM 1#

8 IN HABEAS CORPUS PETITION. PETITIONER
 9 ALLEGED THAT HIS COUNSEL WAS PERFORMING
 10 BELOW THE STANDARDS OF REASONABLY
 11 COMPETENT COUNSEL IN ATTACHMENT
 12 "A". A-29# OF PETITIONERS

13 WRIT OF HABEAS CORPUS - IN SUPPORT
 14 OF THIS PETITIONER ALLEGED IN
 15 # A 5-18[#] STATEMENT OF APPETITABILITY
 16 IN WRIT OF HABEAS CORPUS WHY
 17 AND HOW TRIAL COUNSEL FELT BELOW
 18 THE STANDARDS OF REASONABLY COMPETENT
 19 COUNSEL - WHICH DISTRICT COURT
 20 JUDGE COMPLETELY IGNORED IN HIS
 21 OWN REPORT OF RECOMMENDATION PAGES
 22 4- 7[#] AND FAILED TO ADDRESS.
 23 THE JUDGE SUMMARILY DENIED ALL OF THE
 24 CLAIMS WITHOUT GRANTING A EVIDENTIARY
 25 HEARING -

26 HEREIN PETITIONER MAINTAINS THAT THE
 27 JUDGE ERRED BY SUMMARILY DENYING THE
 28 FOLLOWING CLAIMS

1 WHICH WERE RAISED AS TO CLAIM ONE IN
 2 WRIT OF HABEAS CORPUS - ATTACHMENT
 3 "A" A - 5-18th STATEMENT OF
 4 APPEALABILITY -

5 IN ORDER DENYING PETITION THE JUDGE
 6 ANALYZES TRIAL JUDGES "TACTICAL" DECISION
 7 AND CALLS PETITIONERS REQUEST FOR PITCHES
 8 MOTION UNSUPPORTED SPECULATION - CALLING
 9 TRIAL COUNSEL'S REFUSAL OF PITCHES MOTION
 10 TACTICAL - BUT JUDGE IS NOT NOTICING
 11 THAT ALL THE CLAIMS IN WHICH PETITIONER
 12 IS SEEKING COA RATE IN ONE WAY OR
 13 ANOTHER TO TRIAL COUNSEL'S FAILURE TO
 14 CONDUCT A REASONABLE PRE TRIAL
 15 INVESTIGATION AS GUARANTEED BY STRICKLAND
 16 V WASHINGTON 466 US 668 685 104 S. CT
 17 2052 80 L. ED 674 (1984) THIS IN
 18 LIGHT OF THE OVERWHELMING CONTRADICTORY
 19 EVIDENCE THAT JUDGE FAILS TO STATE
 20 IN HIS ORDER DENYING PETITION. OF
 21 HABEAS CORPUS: FURTHERMORE MORE THE
 22 JUDGES RATIONALE FOR SUMMARILY REJECTING
 23 PETITIONERS CLAIM IS ESSENTIALLY,
 24 THAT PETITIONER HAS NOT OFFERED MORE
 25 THAN UNSUPPORTED SPECULATION - AND
 26 CLAIMING THAT TRIAL COUNSEL MADE A
 27 TACTICAL DECISION AS TO PETITIONERS
 28 CLAIM THAT HIS TRIAL ATTORNEY WAS

1 performing below reasonably competent
 2 counsel. Petitioner still claims that
 3 the district court erred by failing
 4 to grant petition and evidentiary
 5 hearing on his writ of habeas corpus
 6 which related to trial counsel's
 7 deficient investigation into his "alleged"
 8 "tactical" decision which was no more
 9 than a desperate reason to refuse
 10 pitchess motion. Inclusive as shown
 11 on petitioners writ page A-10 -
 12 where counsel admits that his opinion
 13 thus "tactical" decision was not nothing
 14 more than a assumption and he also
 15 state he may be wrong. A assumption
 16 which was based on no particular
 17 knowledge or investigation of the
 18 prosecution's star witness -
 19

20 CLAIM TWO

21 in habeas corpus petition, petitioner
 22 alleges in claim two. Writ of
 23 habeas corpus Attachment "B"
 24 #B 1 - 41 - petitioner alleges that
 25 district court erred and acted contrary
 26 to clearly established federal law
 27 divided by the United States courts,
 28 which petitioner articulated on his writ

1 PETITIONER ALLEGES THAT ALL THE CLAIMS
 2 RAISED IN SUPPORT OF CLAIM TO OBTAIN WRIT
 3 OF HABEAS CORPUS WERE COMPLETELY
 4 DISREGARDED BY DISTRICT JUDGE IN HIS
 5 ORDER OF DENYING PETITION PAGE 7-12
 6 WHERE HE NOT ONCE ADDRESSES THE ISSUES
 7 THAT PETITIONER RAISED TO SUBSTANTIATE
 8 HIS CLAIM. IN FACT DISTRICT JUDGE NOT
 9 ONES MENTIONED PETITIONERS ARGUMENT
 10 AND PROVIDED RECORD DOCUMENTATION ON
 11 PETITIONERS WRIT OF HABEAS CORPUS
 12 PAGES - B-3[#] AND B 20[#] WHERE
 13 COUNSEL ADMITS TO A CONFLICT YET
 14 THE TRIAL JUDGE COMPLETELY IGNORES COUNSEL'S
 15 OWN REQUEST THAT ITS TIME TO SWITCH
 16 ATTORNEYS -
 17 THE DISTRICT COURT JUDGE NOT ONES
 18 MENTIONED ANYTHING IN REGARDS TO
 19 PETITIONERS CLAIMS AND INSTEAD BASED
 20 HIS DECISION ON ISSUES THAT PETITIONER
 21 DID NOT BRING UP. RATHER THAN THE ISSUES
 22 THAT WERE RAISED IN PETITIONERS WRIT.

23 STATEMENT OF
 24 REASONS FOR ISSUANCE OF COA.

25
 26 THE DISTRICT COURT FAILED IN ERRING
 27 TO GRANT petition for WRIT OF HABEAS
 28 CORPUS WHEN IT WAS CLEARLY SHOWN

(COA
 90 + 15)

1 THAT PETITIONER RIGHT TO COUNSEL WAS
 2 VIOLATED WHEN HE WAS FORCED TO CONTINUE TO
 3 GO TO TRIAL WITH A LAWYER WHO HE DID NOT
 4 TRUST AND HAD BECOME SO EMBROILED IN
 5 TENSION AND FRICTION THAT THE RELATIONSHIP
 6 BETWEEN CLIENT AND COUNSEL WAS SO IRREVOCABLY
 7 IMPAIRED (AS RECORD IN WRIT OF HABEAS
 8 CORPUS ATTACHMENT # B-1 B-41 # DEMONSTRATED)
 9 THAT INEFFECTIVE REPRESENTATION WAS
 10 LIKELY TO RESULT.

11

12 NATURE OF CLAIM 2.

13

14 IN HABEAS CORPUS PETITION PETITIONER
 15 ALLEGED THAT TRIAL JUDGE ABUSED HIS
 16 DISCRETION IN NOT SUBSTITUTING TRIAL
 17 COUNSEL WHEN AS EXPLAINED IN FULL
 18 DETAIL IN ATTACHMENT # B-1-B41 # OF
 19 WRIT OF HABEAS CORPUS - PETITIONER
 20 ILLUSTRATES HOW HIS AND COUNSEL'S
 21 RELATIONSHIP HAD BECOME SO IRREVOCABLY
 22 IMPAIRED THAT AS THE RECORD CAPTED
 23 INEFFECTIVE REPRESENTATION RESULTED.

24 DISTRICT JUDGE NOT ONCE MENTIONED
 25 TRIAL COUNSEL'S OWN VOLUNTERED ADMISSIONS
 26 OF CONFLICT AND WISHING TO SWITCH
 27 ATTORNEYS AS NOTED IN PAGE B-3 #
 28 OF WRIT OF HABEAS CORPUS

1 OR HIS ADMISSION TO THERE BEING A
 2 BREAKDOWN AS STATED IN PETITIONERS
 3 WRIT OF HABEAS CORPUS PAGE #B 20 -
 4 FURTHER MORE IT IS VERY CLEAR FROM
 5 JUDGES ORDER DENYING PETITION PAGES
 6 7# - 12 THAT DISTRICT JUDGE FAILS
 7 TO NOTE THAT TRIAL ATTORNEYS ALLEGED
 8 "TACTICAL" DECISION FOR A DEFENSE WHICH
 9 WAS ONE OF THE MAIN REASONS OF THE
 10 CONFLICT WAS AND CANNOT BE PROTECTED
 11 BY LAW AS IT WAS ONLY DONE AFTER A
 12 VERY BAD CHOICES REASONS FOR NOT WANTING
 13 TO FILE DISMISS MOTION. ALL OF WHICH
 14 WERE HEARD BY JUDGE AND ON THE
 15 RECORD AND WRONGFULLY ALLOWED TO
 16 BE ALLOWED AS A "TACTICAL" CHOICE WHEN
 17 TRIAL ATTORNEY HAD NOT MADE OR MET
 18 THE LEGAL STANDARDS THAT PROTECT HIS
 19 CHOICE AS TACTICAL AS HE DID NO
 20 INVESTIGATION OR PREPARATION TO
 21 SUBSTANTIATE HIS CHOICE WHICH BY HIS
 22 OWN ADMISSION WAS JUST A GUESS -

23 SPECIFICS OF CLAIM 2# 24

25 FEDERAL CASES HOLD THAT WHEN A
 26 DEFENDANT DEMONSTRATES SUCH A BREAKDOWN
 27 THE TRIAL JUDGE IS REQUIRED TO ORDER A
 28 SUBSTITUTION OF COUNSEL - JACKSON V Y/ST

COA

10 of 15

1 (9TH CIR. 1990) 921 F.2d 882 888
 2 THIS IN UNITED STATES V WILLIAMS (9TH CIR. 1979)
 3 594 F.2d 1258, 1259, -1261 - THE TRIAL COURT
 4 (THE FEDERAL COURTS OF APPEAL HELD.) SHOULD
 5 HAVE GRANTED DEFENDANTS REPEATED MOTIONS
 6 FOR SUBSTITUTION OF COUNSEL BECAUSE A STRONG
 7 SHOWING WAS MADE OF THE STATE OF DISTRESS
 8 BAD RELATIONSHIP AND LACK OF COMMUNICATION
 9 BETWEEN PETITIONER AND HIS ATTORNEY IN
 10 REGARD TO THE PREPARATION OF HIS DEFENSE.

11 SO THAT DENIAL OF PETITIONERS MOTION
 12 FOR CHANGE OF APPOINTMENT COUNSEL DEPRIVED
 13 HIM OF HIS CONSTITUTIONAL GUARANTEED RIGHT
 14 TO HAVE THE EFFECTIVE ASSISTANCE OF COUNSEL
 15 BEFORE TRIAL AND AT HIS TRIAL

16 THE TRIAL COURT ERRORED IN DENYING
 17 PETITIONERS REQUEST FOR SUBSTITUTION
 18 OF COUNSEL BECAUSE TRIAL JUDGES
 19 FOCUSED HIS DECISION BY FOCUSING ON
 20 COUNSELS PAST LEGAL COMPETENCY (SEE
 21 BRIEF PAGE 34.) WHEN THE PROPER
 22 FOCUS OF SUCH INQUIRY WHEN A
 23 INDIGENT DEFENDANT REQUESTS FOR SUBSTITUTION
 24 OF COUNSEL, SHOULD BE ON THE ACTUAL
 25 NATURE AND EXTENT OF THE CURRENT AND
 26 ACTUAL CONFLICT. UNITED STATES V
 27 WALKER SUPRA 915 F.2d AT 483.

28 REBUTAL TO DISTRICT JUDGE ORDER -

(COA
 120 F.15.)

1 IN JUDGES CHARLES R. BREYER ORDER
 2 TO DENY PETITION FOR A WRIT OF
 3 HABEAS CORPUS HE FINDS THAT PETITIONER
 4 HAS NOT MET HIS CLAIMS. IN CLAIM ONE
 5 PETITIONERS CONSTITUTIONAL RIGHT TO
 6 AFFECTIVE ASSISTANCE OF COUNSEL WAS
 7 VIOLATED BECAUSE IN A CASE WHERE THERE IS
 8 A OVERWHELMING CONTRADICTION TO THE STATEMENTS
 9 PROSECUTIONS ONLY WITNESS WASH ATTEMPTS
 10 TO CONNECT PETITIONER TO THE ACCUSED CRIME
 11 AND WHERE HIS CREDIBILITY COULD BE
 12 CHALLENGED THROUGH A PITCHES MOTION
 13 WHICH TRIAL ATTORNEY DENIED FOR NUMEROUS
 14 OF REASONS WHICH WERE ALL CAPTIONED ON
 15 RECORD THAT DEMONSTRATE THAT TRIAL
 16 ATTORNEY WAS PERFORMING BELOW THE
 17 STANDARD OF COMPETENT ATTORNEY AND
 18 THEN IS SUBSTANTIATED. WHEN HE
 19 ATTEMPTS TO SHIELD HIS INCOMPETENCE
 20 WITH A ASSUMPTIVE GUESS WHICH WAS
 21 NOT REACHED THROUGH ANY INVESTIGATIVE
 22 RESEARCH DISTRICT JUDGE ERRED.

23 SECONDLY IN SECOND CLAIM
 24 PETITIONERS CONSTITUTIONAL RIGHTS
 25 WERE ALSO VIOLATED AS THROUGH
 26 VARIOUS EXAMPLES PROVIDED BY PETITIONER
 27 IN WRIT OF HABEAS CORPUS PETITIONER
 28 HAS CLEARLY DEMONSTRATED HOW

1 HAD TRIAL JUDGE SUBSTITUTED COUNSEL
 2 WHEN IT WAS REQUESTED NUMEROUS TIMES
 3 HOW PERHAPS PETITIONERS ODDS WITH THE JURY
 4 WOULD HAVE BEEN MUCH MORE FAVORABLE.

5 SUMMARY

6
 7 AS HELD IN TOTTER V MERKLE 137 F.3d
 8 1172, 1176 (CA10 Cir 1998) "IN HABEAS CORPUS
 9 PROCEEDINGS AN EVIDENTIARY HEARING IS REQUIRED
 10 WHEN THE PETITIONERS ALLEGATIONS IF PROVEN
 11 WOULD ESTABLISH THE RIGHT TO RELIEF." Id. AT
 12 1176. THAT IS THE SITUATION HERE
 13 PETITIONER HAS ALLEGED FACTS CAPTED ON
 14 RECORD ON BOTH HIS CLAIMS WHICH IF TRUE
 15 ESTABLISH A BASIS FOR RELIEF ON PETITIONERS
 16 CLAIMS THAT (1) COUNSELORS FAILURE TO SEEK
 17 PITCHESS MOTION DISCOVERY FOR THE WITNESS
 18 ON WHOM THE ENTIRE PROSECUTIONS CASE
 19 DEPENDS IS A VIOLATION OF PETITIONERS
 20 6TH AMMENDMENT RIGHT TO EFFECTIVE
 21 ASSISTANCE OF COUNSEL AS TRIAL ATTORNEY
 22 FELT AND WAS ACTING BELLOW THE STANDARDS
 23 OF REASONABLY COMPETENT COUNSEL
 24 CLAIM (2) DENIAL OF PETITIONERS
 25 MARROSEN NOTIONS WAS AN ABUSE OF
 26 DISCRETION BECAUSE COUNSEL WAS
 27 PERFORMING BELLOW THE STANDARDS OF
 28 REASONABLY COUNSEL AND BECAUSE THE

(CWA
 140F18)

1 RELATIONSHIP BETWEEN CLIENT AND COUNSEL WAS
 2 SO IRREVOCABLY IMPAIRED THAT INEFFECTIVE
 3 REPRESENTATION WAS LIKELY TO RESULT.
 4 THUS THE DISTRICT COURT JUDGE ERRED
 5 IN SUMMARY REJECTING PETITIONERS WRIT OF
 6 HABEAS CORPUS AND PETITIONERS CLAIMS
 7 IN FAVOR OF GRANTING AT LEAST AN
 8 EVIDENTIARY HEARING ON IT - AND GRANT PETITION

CONCLUSION

12 THE ISSUES DISCUSSED ABOVE ARE AT
 13 THE VERY LEAST DEBATABLE AMONG JURISTS
 14 OF REASON. HENCE IT IS RESPECTFULLY
 15 REQUESTED THAT THIS COURT GRANT A
 16 CERTIFICATE OF APPEALABILITY ON THE
 17 ISSUES IDENTIFIED AT THE OUTSET OF THIS
 18 APPLICATION

20 DATE 7.16.08

22 RESPECTFULLY
 23 SUBMITTED.

24 

26 PETITIONER

27 FELIPE ROCHA #94573

28 IN PRO-SE.

(CUA
 150 of 18)

PROOF OF SERVICE BY MAIL

(C.C.P. Section 101a #2105.5, 20 U.S.C. 1746)

#K-94573

I, FELIPE ROCHA, am a resident of Pelican Bay State Prison, in the County of Del Norte, State of California. I am over eighteen (18) years of age and am a party to the below named action.

My Address is: P.O. Box 7500, Crescent City, CA 95531.

On the 16th day of JULY, in the year of 2008, I served the following documents: (set forth the exact title of documents served)

- ① PRISONERS APPLICATION TO PROCEED IN FORMA PAUPERIS.
 ② CERTIFICATE OF FUNDS IN PRISONERS ACCOUNT
 ③ NOTICE OF APPEAL ORIGINAL - 2 PAGES
 ④ PRISONERS APPLICATION FOR CERTIFICATE OF APPEALABILITY
 (15 PAGES.) ORIGINAL COURT COPY FOR
 ATTORNEY GENERAL AND
 MFP paper & certificate -

on the party(s) listed below by placing a true copy(s) of said document, enclosed in a sealed envelope(s) with postage thereon fully paid, in the United States mail, in a deposit box so provided at Pelican Bay State Prison, Crescent City, CA 95531 and addressed as follows:

<u>UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT</u>	<u>ATTORNEY GENERAL (CAL.)</u>
<u>U.S. COURT HOUSE</u>	<u>SAN FRANCISCO OFFICE</u>
<u>450 GOLDEN GATE AVENUE</u>	<u>455 GOLDEN GATE AVE 11000</u>
<u>SAN FRANCISCO CAL</u>	<u>SAN FRANCISCO - CAL</u>
<u>94102-3483</u>	<u>94102-3664</u>

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 16th day of JULY, 2008.

Signed: _____

(Declarant Signature)